

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6319

BILL NUMBER: SB 48

NOTE PREPARED: Feb 20, 2009

BILL AMENDED: Feb 19, 2009

SUBJECT: Child Solicitation.

FIRST AUTHOR: Sen. Head

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes child solicitation committed by a person at least 21 years of age against a child under 14 years of age a Class C felony if the person performs an overt act demonstrating an intent to physically meet the child. It enhances the penalty to a Class B felony if it is committed by means of a computer network, and to a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) Under current law, there is no requirement that a solicitor actually complete the act of meeting with his or her victim to commit the crime of child solicitation. This bill would create new penalties when a person over the age of 21 solicits a child younger than 14 years of age and performs an overt act to physically meet the victim. The following table shows these proposed changes.

Circumstance	Current Law at least 18 years of age	Proposed at least 21 years of age *
Solicits sexual intercourse, deviate sexual conduct, or fondling or touching	Class D felony	Class C felony
Above via a computer network	Class C felony	Class B felony
Above with a previous conviction for an unrelated offense	Class B felony	Class A felony
* AND performs overt act demonstrating an intent to physically meet the child		

The sentencing court could suspend the sentence of the offender so that the person could avoid prison time and be assigned to probation, community corrections, or some other form of community supervision. These offenders would be required to register as sex offenders with the local law enforcement agency.

The following table shows the minimum sentence, presumptive sentence, and the maximum sentence that an offender can receive under current law.

Felony Class	Minimum	Advisory	Maximum
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A felony or for a Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local

governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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